



## Senate

General Assembly

**File No. 476**

*January Session, 2007*

Substitute Senate Bill No. 1183

*Senate, April 12, 2007*

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE PENSIONS OF STATE AND MUNICIPAL EMPLOYEES OR PUBLIC OFFICIALS CONVICTED OF FRAUD OR CORRUPTION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective from passage*) As used in sections 1 to 3,  
2       inclusive, of this act:

3       (1) "Public official" means public official, as defined in section 1-79  
4       of the general statutes and any elected or appointed municipal official;

5       (2) "State or municipal employee" means state employee, as defined  
6       in section 5-154 of the general statutes, and includes employees of any  
7       quasi-public agency, as defined in section 1-120 of the general statutes,  
8       or any person, whether appointed, elected or under contract, who  
9       provides services for a city, town or other political subdivision for  
10      which a pension or other retirement benefit is provided; and

11      (3) "Crime related to state or municipal office" means any of the

12 following criminal offenses committed by a person while serving as a  
13 public official or state or municipal employee:

14 (A) The committing, aiding or abetting of an embezzlement of  
15 public funds from the state, a municipality or a quasi-public agency;

16 (B) The committing, aiding or abetting of any felonious theft from  
17 the state, a municipality or a quasi-public agency;

18 (C) Bribery in connection with service as a public official or state or  
19 municipal employee; or

20 (D) The committing of any felony by such person who, wilfully and  
21 with the intent to defraud, realizes or obtains, or attempts to realize or  
22 obtain, a profit, gain or advantage for himself or herself or for some  
23 other person, through the use or attempted use of the power, rights,  
24 privileges or duties of his or her position as a public official or state or  
25 municipal employee.

26 Sec. 2. (NEW) (*Effective from passage*) (a) Notwithstanding any  
27 provision of the general statutes, if any person is convicted or pleads  
28 guilty or nolo contendere to any crime related to state or municipal  
29 office in federal or state court, the court, as part of the sentence  
30 imposed, may revoke or reduce any retirement or other benefit or  
31 payment of any kind to which such person is otherwise entitled under  
32 the general statutes for service as a public official or state or municipal  
33 employee.

34 (b) In determining whether the retirement or other benefit or  
35 payment shall be revoked or reduced, the court shall consider and  
36 make findings on the following factors:

37 (1) The severity of the crime related to state or municipal office for  
38 which the person has been convicted or to which the person has pled  
39 guilty or nolo contendere;

40 (2) The amount of monetary loss suffered by the state, a  
41 municipality or a quasi-public agency or by any other person as a

42 result of the crime related to state or municipal office;

43 (3) The degree of public trust reposed in the person by virtue of the  
44 person's position as a public official or state or municipal employee;

45 (4) If the crime related to state or municipal office was part of a  
46 fraudulent scheme against the state or a municipality, the role of the  
47 person in the fraudulent scheme against the state or a municipality;

48 (5) Whether such person voluntarily provided information to the  
49 state pursuant to section 4-61dd of the general statutes regarding fraud  
50 against the state that was connected to the crime related to state or  
51 municipal office for which such person was convicted and whether  
52 such information was provided prior to such person's knowledge of  
53 any criminal investigation into the crime related to state or municipal  
54 office; and

55 (6) Any such other factors as, in the judgment of the court, justice  
56 may require.

57 (c) If the court determines that a retirement or other benefit or  
58 payment of a person should be revoked or reduced, it may, after  
59 taking into consideration the financial needs and resources of any  
60 innocent spouse, dependents and designated beneficiaries of the  
61 person, order that some or all of the revoked or reduced benefit or  
62 payment be paid to any such innocent spouse, dependent or  
63 beneficiary as justice may require.

64 (d) If the court determines that the retirement or other benefit or  
65 payment of such person should not be revoked or reduced, it shall  
66 order that the retirement or other benefit or payment be made to such  
67 person.

68 Sec. 3. (NEW) (*Effective from passage*) (a) Any person whose  
69 retirement or other benefits or payments are revoked pursuant to  
70 section 2 of this act shall be entitled to a return of his or her  
71 contribution paid into the relevant pension fund, without interest.

72 (b) Notwithstanding the provisions of subsection (a) of this section,  
73 no payments in return of contributions shall be made or ordered  
74 unless and until the Superior Court determines that the person whose  
75 retirement or other benefits or payments have been revoked pursuant  
76 to section 2 of this act has satisfied in full any judgments or orders  
77 rendered by any court of competent jurisdiction for the payment of  
78 restitution to the state or a municipality for losses incurred as a result  
79 of the crime related to state or municipal office. If the Superior Court  
80 determines that the person whose retirement or other benefits or  
81 payments have been revoked under section 2 of this act has failed to  
82 satisfy any outstanding judgment or order of restitution rendered by  
83 any court of competent jurisdiction, it may order that any funds  
84 otherwise due to such person as a return of contribution, or any  
85 portion thereof, be paid in satisfaction of the judgment or order.

86 (c) No provision of section 2 or 3 of this act shall be construed to  
87 prohibit or limit any payment made pursuant to a qualified domestic  
88 relations order by: (1) Any public official or state or municipal  
89 employee who is convicted or pleads guilty or nolo contendere to any  
90 crime related to state or municipal office; or (2) any state or municipal  
91 agency responsible for the administration of such payment on behalf of  
92 such public official or state or municipal employee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section

**GAE**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>
Comptroller Misc. Accounts (Fringe Benefits)	Various – Potential Savings

#### ***Municipal Impact:***

<b>Municipalities</b>	<b>Effect</b>
Various Municipalities	Potential Savings

### ***Explanation***

The revocation or reduction of retirement or other benefits permitted under the bill may result in a savings to the fringe benefit accounts administered by the Office of the State Comptroller (OSC) and the state employees and municipal employee retirement funds. Any state or municipal savings would be dependent upon the degree to which such retirement and other benefits are reduced.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sSB 1183*****AN ACT CONCERNING THE PENSIONS OF STATE AND MUNICIPAL EMPLOYEES OR PUBLIC OFFICIALS CONVICTED OF FRAUD OR CORRUPTION.*****SUMMARY:**

With one exception, this bill permits federal or state courts to revoke or reduce any retirement or other benefit due to state or municipal public officials or employees when sentencing them for certain crimes related to their employment. The exception is that no revocation or reduction prohibits or limits benefits that are the subject of a qualified domestic relations order. (The bill appears to have no legal effect with respect to federal courts because federal, rather than state, law governs federal sentencing.) The bill specifies the factors courts must consider when making this decision.

If an official's or employee's pension is revoked, the bill entitles him, under certain circumstances, to the return of any contributions he made to it without interest.

Lastly, the bill requires the court to order payment of any benefit or payment that is not revoked or reduced.

EFFECTIVE DATE: Upon passage

**CRIMES RELATED TO OFFICE OR EMPLOYMENT**

The bill allows courts to revoke or reduce the benefits of any public official or employee who is convicted or pleads guilty or *nolo contendere* (no contest) to:

1. committing or aiding or abetting the embezzlement of public funds from the state, a municipality, or a quasi-public agency;

2. committing or aiding or abetting any felonious theft from the state, a municipality, or a quasi-public agency;
3. bribery connected to his role as a public official or employee; or
4. felonies committed willfully and with intent to defraud to obtain or attempt to obtain an advantage for himself or others through the use or attempted use of his office.

“Public officials” are statewide elected officers; legislators and legislators-elect; gubernatorial appointees, including their appointees; municipal elected and appointed officials; public members and union representatives on the Investment Advisory Council; quasi-public agency members and directors; and people appointed or elected by the General Assembly or any house thereof. The term does not include judges, advisory board members, or members of Congress. “State employees” includes employees of quasi-public agencies.

### **SENTENCING CONSIDERATIONS**

When determining whether to revoke or reduce a public official’s or employee’s benefits or payments, the bill requires the court to consider:

1. the severity of the crime;
2. the amount of money the state, municipality, quasi-public agency, or anyone else lost as a result of the crime;
3. the degree of public trust reposed in the person by virtue of his position;
4. if the crime was part of a fraudulent scheme against the state or a municipality, the defendant’s role in it;
5. whether the person cooperated with the state as a whistleblower before knowing of the criminal investigation; and
6. any other factors the court determines that justice requires.

The court must consider the needs of an innocent spouse or beneficiary after making its determination and may order that all or part of the benefits be paid to the spouse or beneficiary.

**REVOKED BENEFITS**

If an official's or employee's pension is revoked, the bill entitles him to the return of any contributions he made to it without interest. But, the repayment cannot be made until the court determines that the official or employee has fully satisfied any judgment or court-ordered restitution related to crime against his office. If the court determines that he has not, it may deduct the unpaid amount from the individual's pension contributions.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13      Nay 0      (03/26/2007)